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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,764	02/25/2004	Alec Drummond	012AD-001A	2858
7590 08/11/2004 Bradley N. Ruben, PC Suite 5A 463 First St. Hoboken, NJ 07030			EXAMINER GRILES, BETHANY L	
			ART UNIT 3643	PAPER NUMBER

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/786,764	DRUMMOND, ALEC	
	<b>Examiner</b>	<b>Art Unit</b>	
	Bethany L. Griles	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant must replace the phrase "and/or", as it renders indefinite what is being claimed.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 7-9, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Witham US1703805.

Regarding claims 1, 7, 10, and 11, Witham discloses a standing surface 22 on which the animal places at least part of its weight; a chassis 21, 20, 10, connected to or integral with the standing surface and supported parallel to a base (in the case of Witham, the floor serves as a base); the chassis having an opening 11 in which food can be placed; a movable connection 20 between the base and the chassis allowing the chassis to move towards and away from the base while maintaining the parallel configuration (see the orientation of 21 in figs 2 and 3—both are in a relatively parallel configuration with respect to the floor which serves as a base); at least one door 17

attached to the chassis by a door pivot 18 and adapted to cover the opening in which the food is placed; a lever 24 pivotally connected to the chassis 21 by a first pivot , having a first arm that engages the base and a second arm that engages the door to move the door about the door pivot (refer to elements 15, 24, and 17 in figures 2 and 3) ; and a tension rod including a spring 25 tending the pivot arm away from engagement with the door.

Regarding claims 3 and 9, Witham discloses means for changing the tension on the tension rod, in that the spring 25 can be changed.

Regarding claim 8, Witham discloses that the movement means is parallel arms 21.

4. Claims 4 and 6 (method) are rejected under 35 U.S.C. 102(b) as being anticipated by Witham US1703805.

Regarding claim 4, Witham discloses a standing surface 22 on which the animal places at least part of its weight; a chassis 21, 20, 10, connected to or integral with the standing surface and supported parallel to a base (in the case of Witham, the floor serves as a base); the chassis having an opening 11 in which food can be placed; a movable connection 20 between the base and the chassis allowing the chassis to move towards and away from the base while maintaining the parallel configuration (see the orientation of 21 in figs 2 and 3—both are in a relatively parallel configuration with respect to the floor which serves as a base); at least one door 17 attached to the chassis by a door pivot 18 and adapted to cover the opening in which the food is

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placed; a lever 24 pivotally connected to the chassis 21 by a first pivot, having a first arm that engages the base and a second arm that engages the door to move the door about the door pivot (refer to elements 15, 24, and 17 in figures 2 and 3); and a tension rod including a spring 25 tending the pivot arm away from engagement with the door. Regarding claim 6, Witham discloses that the door closes upon movement of the platform towards the base (refer to the movement of the door in figures 2 and 3).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claim 2 rejected under 35 U.S.C. 103(a) as being unpatentable over Witham in view of Bates US3176656.

8. Regarding claim 2, Witham discloses the device as described in claim 1.

9. Witham does not disclose a skirt.
10. Bates discloses a skirt 34 disposed on the side of the structure.
11. It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Bates of a skirt portion on the chassis in order to make the device more readily geared toward leading an animal directly toward the feeding trough.
12. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Witham.
13. Regarding claim 5, Witham discloses that the door opens when the platform moves toward the base (col 2, lines 68-71).
14. Witham does not disclose that the door closes when the platform moves toward the base.
15. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the door close when the platform was stepped on in order to keep unwanted animals from eating the feed. As such a change would require only a rearrangement of already disclosed parts by Witham, it would be within the skill of one in the art to change the function of the platform to make its depression close the door in lieu of opening it, as disclosed by Witham.

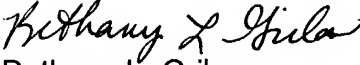
### ***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ryles US5709169; Splane US6622656; Robbins US1257399.

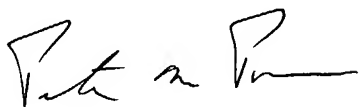
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bethany L. Griles whose telephone number is 703.305.1839. The examiner can normally be reached on Monday through Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703.308.2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Bethany L. Griles  
Examiner  
Art Unit 3643

blg

  
Peter M. Poon  
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8/6/04